IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.12.2006

CORAM:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.33000 of 2002

M.Siva Raj .. Petitioner

Versus

1. The District Collector,
   Villupuram District,
   Formerly South Arcot District,
   Villupuram.

2. The District Revenue Officer,
   Villupuram.

3. The Tahsildar,
   (Revenue) Thirukoilur,
   Villupuram District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India as stated therein.

For Petitioner : Mr.A.R.Nixon

For Respondents : Mr.C.Thirumaran
Government Advocate

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O R D E R

The writ petition has been filed for the issuance of a Writ Certiorarified Mandamus to call for the records relating to the order in Na.Ka.A1/11338/85, dated 18.2.2002, issued by the Tahsildar, Thirukoilur, to an extent of Rs.1,33,710/- and quash the same, thereby, forbearing the respondents from collecting Rs.1,33,710/- from the petitioner.

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2. Heard the learned counsel appearing on behalf of the petitioner as well as for the respondents.

The brief facts of the case, as stated by the petitioner, are as follows:

3. The petitioner is running a fertiliser business at Arakandanalloor. The Assistant Engineer (HRRW) issued eviction orders to the petitioner alleging that the petitioner had encroached upon 0.02 acres of the land belonging to the Highways Department by putting up a compound wall. The petitioner had preferred an appeal against the said order before the second respondent herein, namely, the District Revenue Officer, Villupuram. The second respondent in his proceedings D.Dis.723324/73, dated 2.4.1994, had observed that the said land could be leased out to the petitioner, since there was no immediate proposal for widening the Road. Thereafter, by an order in D.Dis.22359/75, dated 10.1.1976, the land in question was leased out to the petitioner, subject to the payment of Rs.96/- per annum. The lease had been, subsequently, extended for each fasli year. Thereafter, the lease amount was raised to Rs.3,220/- till fasli 1408. The petitioner has been paying the lease amount without any default. Further, the petitioner had also made a request to the second respondent to assign the said land to him. However, the third respondent had sent a communication in Na.Ka.No.AA1/11338/85, directing the petitioner to pay a sum of Rs.42,480/-, including Rs.6,480/- towards local cess and Rs.36,000/- towards local cess surcharge.

4. The petitioner had challenged the above mentioned order before this Court in W.P.No.19593 of 1990. The writ petition had been dismissed, on 8.1.2001. The appeal preferred against the said order had also been dismissed. While so, the third respondent has sent a communication in Na.Ka.A1/11338/85, dated 18.2.2002, stating that the petitioner should pay Rs.2,61,757/-, being the Local Cess and Local Cess Surcharge from fasli 1390 to 1407.

5. The petitioner had paid the lease amount upto 30.6.1999. The said amount had been paid, on 12.3.1999. Since the petitioner had vacated the premises as per the order, dated 20.6.1996, and the possession of the said land had been handed over to the Tahsildar, he is not liable to pay any amount, after 20.6.1996. Aggrieved by the impugned order of the third respondent, dated 18.2.2002, the petitioner has preferred the present writ petition on the various grounds as stated therein.

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6. In the counter-affidavit filed on behalf of the third respondent, the claims made by the petitioner have been denied. It has been stated that the petitioner had encroached upon 1.02 acres adjacent to the petitioner's premises. The encroached area was leased out to him by the proceedings of the second respondent in D.Dis.22359/75, dated 10.1.1976, subject to the payment of Rs.96/- per annum. The lease was extended for each fasli and the lease amount was raised as follows:-

1.	1.7.1984 to 30.6.1987	1800
2.	1.7.1987 to 30.6.1990	1993
3.	1.7.1990 to 30.6.1993	2525
4.	1.7.1993 to 30.6.1996	2525
5.	1.7.1996 to 30.6.1999	3220

7. The enhancement of the lease amount was not confirmed by the then Special Commissioner, who was authorised to confirm the same, since the encroachment area was utilised for a commercial purpose. When the lease amount was fixed at Rs.1800/- with an increase in the amount for various years, the petitioner had filed a petition before the then Special Commissioner and Commissioner of Revenue Administration, Chennai, who had dismissed the same in D.Dis.E/9256/84, dated 13.4.1987. Thereafter, the petitioner had remitted the enhanced lease amount upto fasli 1408. However, the petitioner had not paid the local cess and local cess surcharge fixed for the lease amount at Rs.2,61,757/- from faslies 1390 to 1409, for 20 years, under Sections 115 and 116 of the Tamil Nadu Panchayats Act, 1958.

8. At this stage of the hearing of the case, it was submitted by the learned counsel appearing on behalf of the petitioner that the petitioner may be permitted to submit a representation to the third respondent, who may be directed to consider the same. It was also submitted by the learned counsels appearing on behalf of the petitioner as well as for the respondents that the appropriate authority to decide the amount allegedly liable to be paid by the petitioner as local cess and local cess surcharge, on the lease amount, relating to the land comprised in S.No.140, LH Road, Nallur Village, is the third respondent.

9. Based on the submissions made by the learned counsels, the petitioner is permitted to make a representation to the third respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representation, the third respondent is

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directed to dispose of the same, within a period of four weeks thereafter, after giving sufficient opportunity to the petitioner, without reference to the order impugned in the present writ petition.

10. With the above directions, the writ petition is disposed of. No costs. Consequently, connected W.P.M.P.No.49023 of 2002 is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

1. The District Collector,
   Villupuram District,
   Formerly South Arcot District,
   Villupuram

2. The District Revenue Officer,
   Villupuram.

3. The Tahsildar,
   (Revenue) Thirukoilur,
   Villupuram District

+1 cc to Mr.A.R.Nixon, Advocate Sr.No.60890.

+1 cc to the Government Pleader Sr.No.60968.

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